THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 760 OF 1995

Date: 28.02.2006

Between:

Shaik Ali, S/o Sri Mohd. Khasim, aged 62 years, Manager (Retd), A.P. D.D.C.F. Ltd., resident of H.No. 12-13-1137, ST. No.11, Tarnaka, Lallaguda, Secunderabad.

… Petitioner

and

The Managing Director, A.P. Dairy Development Co-op. Federation Ltd., Lallapet, Hyderabd.

… Respondent.

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 760 OF 1995

ORDER:

Proceedings of the respondents dated 21.04.1993, in rejecting the claim of the petitioner for medical reimbursement, is impugned in this writ petition and a consequential direction is sought to the respondents to pay the petitioner a sum of Rs.40,000/- towards treatment of his wife and Rs.3,098/- towards his treatment together with interest at 24% per annum from the date of submission of bills.

2. Brief facts, to the extent necessary, are that the petitioner worked with the respondent for 40 years and retired from service in the year 1990. In 1989, when his wife suffered a heart attack, she was admitted in the Andhra Mahila Sabha Hospital wherein she underwent an Angiogram and was given treatment. The petitioner shifted her to Madras Medical Mission for By-pass surgery and she was operated on 27.02.1989. She was thereafter under the care of the

Cardiologist at Andhra Mahila Sabha Hospital. Petitioner claims to have submitted all the necessary bills, towards the expenditure incurred by him in this regard, to the respondent. It is stated that the petitioner's wife suffered another heart attack on 21.04.1992, that she was admitted in Andhra Mahila Sabha Hospital and that she expired on 23.04.1992. According to the petitioner, the bills on account of the medical expenses, amounting to a sum of Rs.57,853.60ps, had been submitted to the respondent, but no amount was paid to the petitioner. For retinal detachment of his right eye the petitioner was operated at Sarojini Devi Eye Hospital on 28.04.1989. A second operation was performed on 15.05.1989. Since both the operations failed, the petitioner was advised to undergo an operation at the Madras Medical Research Foundation on 04.07.1989 and the expenditure incurred by the petitioner in this regard for a sum of Rs.3,098/- was submitted to the respondent for which no payment was made. After documents were called for and clarification sought the respondent, vide letter dated 21.04.1993, informed the petitioner that there was no provision to consider payment of the medical bills.

3 . Petitioner would contend that rejection of his medical bills was not only arbitrary but was also discriminatory inasmuch as several other employees who had undergone operation in private hospitals, both in Hyderabad and at Madras, were paid their medical bills. Petitioner would contend that he is entitled for medical reimbursement as per the rules of the respondent Federation and also as per the Rules notified in G.O.Ms.No. 281 dated 01.06.1989. Reference is made to the consumer dispute raised in C.D.No. 1512 of 1993 before the Consumer Disputes Redressal Forum, Hyderabad and it is stated that the same was dismissed, by order dated 01.11.1994, on the ground that it was not maintainable.

3. A counter affidavit is filed on behalf of the respondents wherein it is stated that the respondent's organization has no knowledge about the heart attack of the petitioner's wife in the year 1989 and about her treatment in the Andhra Mahila Sabha Hospital. Respondent claims ignorance of the bye-pass surgery undergone by the petitioner's wife and her operation on 27.02.1989. It is stated that the respondent Federation has followed the State Government rules and procedure and as per the Federation Medical Rules, treatment is required to be taken only in State Government Hospitals and Institutions recognized by the

State Government. Reference is made to G.O.Ms.No. 317 dated 07.05.1986 whereunder instructions were issued that by pass surgery could be undergone at Durgabai Deshmukh hospital (Andhra Mahila Sabha) only if the Osmania General Hospital, Hyderabad and the Nizam Institute of Orthopedic and Specialities, Hyderabad was not in a position to cope up with the work load regarding such operations. A patient could undergo operation at the Durgabai Deshmukh hospital only on the recommendations of the authorized medical attendant in the Osmania General Hospital and Nizams institute of Orthopedic and Specialities, Hyderabad. Respondent would contend that it is only if the authorized medical attendant, of either of the two hospitals, gave a letter of advice asking the patient to undergo operation at a private hospital on the ground that their hospital could not cope up with the work load and that the patient cannot wait till treatment was undertaken by them, was operation in private hospitals permissible. It is further stated that the petitioner's wife had taken treatment at a private hospital at Madras which is not recognized by the Government. Reference is made to G.O.Ms.No. 281 dated 01.05.1989 to contend that for treatment, either outside the State or outside India, the authorized medical attendant should certify that there was a need for the patient to obtain treatment outside the State. In addition prior approval of the Director of Medical Department/Government in Health Medical and Family Welfare Department was required to be obtained by the person, who wished to obtain treatment outside the State. Respondent claims to be unaware about the eye operation at the Madras Medical Research Foundation on 04.07.1989, and would contend that the petitioner had not taken permission from the authorized medical attendant or approval of the DME or the Medical and Family Welfare Department of the Government, before taking treatment at Madras Medical Research Foundation. It is stated that under Rule 7 of the Medical Reimbursement Rules, the claim is required to be preferred within two months from the last date of incurring expenditure, that the respondent merely followed the procedure and there was no delay on their part in calling for documents and clarifications, and that the petitioner was informed vide letter dated 21.04.1993 that his medical bill was rejected. With regards the case of Sri Reddappa Reddy, SPO who underwent heart operation at Madras, it is stated that the Board in its meeting held on 21.11.1998 considered it as a special case, that the petitioner's case was placed before the board and the Board directed that

the Government Rules and procedure be followed and not to consider the case of the petitioner. The plea of discrimination is denied. It is stated that the petitioner having chosen to undergo treatment contrary to the Federation's Medical Rules cannot claim that he should be given reimbursement.

6. While there seems to be considerable force in the submission that the rules require treatment to be undergone only in Government Hospitals and it is only if the Government Hospitals are unable to cope up with the work load, is treatment permissible in private hospitals either at Hyderabad or outside, in which event the petitioner, not having got himself and his wife treated in government hospitals in the first instance and in the absence of any letter of advice from the medical attendant in such government hospitals, would not have been entitled to claim reimbursement for his and his wife's medical treatment in private hospitals, the admission in the counter-affidavit that the medical bills of Sri Reddappareddy, SPO who underwent heart operation at Madras, were passed and the amount claimed was released by the Board in its meeting held on 29.10.1990, cannot be ignored. Nothing is stated in the counter-affidavit regarding the persons, specified in paragraph 4 of the affidavit filed in support of the writ petition, all of whom are alleged to have undergone treatment in non-government hospitals. If, as contended by the respondents, Sri Reddappareddy was treated as a special case and reimbursement was given for the heart operation which he underwent at Madras, it defies reason as to how the petitioner's case was rejected when his wife underwent a by-pass surgery at Madras Medical center. It is not as if the claim of the petitioner was found not to be genuine. All that is stated in the counter-affidavit is that the petitioner did not choose to undergo medical treatment in government hospitals in the first instance and that his and his wife's treatment in private medical hospitals was without certification of the doctors, in the Government hospitals, that the work load was such as to disable the petitioner and his wife from undergoing treatment in Government hospitals and that it was necessary that he and his wife undergo treatment immediately in a private hospital. If an exception can be made in the case of Sri Reddepppareddy, or others specified in the affidavit filed in support of the writ petition, there is no justification in denying the said benefit to the petitioner herein.

7 . The Board of Directors of the respondent company shall examine the

petitioner's case for reimbursement in the light of the exemption granted in the case of Sri Reddappareddy, SPO and others referred to in the affidavit filed in support of the writ petition, and take an appropriate decision with regards reimbursement of the medical expenses incurred by the petitioner for his wife's by-pass surgery and his eye operation. The entire exercise in this regard shall be completed and the decision communicated to the petitioner within four months from the date of receipt of a copy of this order. Needless to state that if the Board takes a decision in favour of the petitioner, the amount payable in this regard shall be paid to the petitioner within two months thereafter.

4. The Writ petition is disposed of. There shall however be no order as to costs.

Date: 28.02.2006

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RAMESH RANGANATHAN, J

MRKR